



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0235-19
2. Advertiser :	Yum Restaurants International
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	24-Jul-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.3 Violence
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a couple in disagreement with each other. The woman turns around and exclaims: "I've been faking it!" and walks out of the room. The flatmates gasp and look at each other awkwardly. We hear the front door slam shut as the main character realises his flatmates have witnessed their private exchange. He says awkwardly, "Did someone say KFC?". He and his friends are seen enjoying KFC.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

It is clearly domestic violence against the man by the female; it's us emotional violence against him as she demasculates him with words "I've been faking it" this is stating his sexual activity is unable to provide her an orgasm and thus is well known tool by woman to attack insult and demasculate a man as emotionally charged domestic violence.



The reference to 'Faking it' is overtly sexual. Try explaining that to your 6-9 year old grandchildren!

This should be an ad that is shown in adult viewing time not in family viewing time.

With small children watching at the time they asked me what they were talking about but I didn't explain they are too young to understand

Innapropriate sexual inuendo advertising especially in the afternoon on a weekend when kids could be watching

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Description of Advertisement

The Advertisement to which the Complainant refers to is a television advert for the KFC brand and the Hot Rods product (Advertisement). The Advertisement is targeted at adults and will be advertised until 5 August 2019.

We open on a muffled discussion, where a couple are in disagreement with each other. The woman turns around and exclaims: "I'VE BEEN FAKING IT!" and walks out of the room. The flatmates gasp and look at each other awkwardly. We hear the front door slam shut as the main character realises his flatmates have witnessed their private exchange. He says awkwardly, "Did someone say KFC?". We cut to him and his flatmates enjoying Hot Rods with wild abandon.

The complaints and relevant codes

The Complainants have expressed concern that the Advertisement depicts domestic violence and the use of inappropriate language portraying sexual innuendo.

The following concerns are cited in the complaints:

AANA Code of Ethics\2.3 Violence\Domestic violence

AANA Code of Ethics\2.4 Sex/sexuality/nudity\S/S/N - general

No portrayal of domestic violence (Section 2.3)

KFC is of the view that the Advertisement does not in any way present or portray domestic violence and complies with section 2.3 of the Code of Ethics.

There are no graphic depictions of violence or menace.



The tone of the ad is light-hearted and humorous and plays on a common area of awkwardness between couples. The couple in the TV advertisement, whilst in disagreement with each other, do not in any way depict domestic violence or abuse towards each other during their heated discussion. The female appears annoyed in her response to the male, and he in turn appears embarrassed. However, his embarrassment is not long lasting and he is immediately shown afterwards in a moment of care-free laughter, enjoying KFC with his flatmates.

No Sex, sexuality or nudity (Section 2.4)

KFC is of the view that the Advertisement does not depict or treat sex without sensitivity to the relevant audience which is adults.

Although this TV advertisement plays on a common area of awkwardness between couples, it is not sexually explicit. It does not use words, action, or behaviours that depict sex, sexuality, or nudity.

KFC also adheres to the Responsible Children's Marketing Initiative (RCMI) and the Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (QSRI) guidelines. KFC commits to not advertise food products to children or during shows where the audience demographic of children exceeds 35%. This applies to all KFC TV campaigns regardless of the messaging.

Australian Association of National Advertisers Code of Ethics (Code of Ethics)

With respect to other sections of the Code of Ethics, I note that the Advertisement:

- Does not vilify or discriminate people within the specified groups (section 2.1);*
- does not employ sexual appeal in a way that is exploitative or degrading of any individual or group of people (section 2.2);*
- only uses language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) with no use of strong or obscene language (section 2.5);*
- does not depict any material contrary to Prevailing Community Standards on health and safety (section 2.6); and*
- the Advertisement is clearly distinguishable as an advert and uses KFC branding to that effect (section 2.7).*

Therefore, for the reasons outlined above, KFC believes that the Advertisement complies with sections 2.3 and 2.4 of the Code of Ethics.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that:



- It is clearly domestic violence against the man through the use of emotional violence
- That the sexual reference is inappropriate for airing at times when children would be watching.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that the television advertisement features a couple in disagreement with each other. The woman turns around and exclaims: "I've been faking it!" and walks out of the room. The flatmates gasp and look at each other awkwardly. The main character realises his flatmates have witnessed the exchange and he says awkwardly, "Did someone say KFC?". He and his friends are seen enjoying KFC.

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted the complainants' concern that the phrase "I've been faking it" is clearly domestic violence as it is used as emotional violence to emasculate the man.

The Panel noted the advertiser's response that the couple depicted are shown having a disagreement with each other and that this does not constitute domestic violence or abuse.

The Panel considered that the couple were shown having a disagreement, but that this disagreement was not aggressive. The Panel considered that the man in the advertisement does not appear upset or hurt by the comment, and that while he seems initially embarrassed by the disagreement he is seen to recover quickly from it. The Panel considered that a disagreement or argument in a relationship does not of themselves constitute abuse, and that the exchange between the couple in the advertisement was not violent.

The Panel considered that the advertisement did not contain violence, and that Section 2.3 of the Code did not apply.

The Panel considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Panel considered whether the advertisement contained sex, sexuality or nudity.

The Panel considered that all the people in the advertisement were clothed in normal everyday attire and that the advertisement did not contain nudity.

The Panel considered whether the advertisement contained sex. The Panel noted the dictionary definition of sex most relevant to this section of the Code of Ethics is



‘sexual intercourse; sexually stimulating or suggestive behaviour.’ (Macquarie Dictionary 2006).

The Panel noted the complainant’s reference to ‘faking it’ and considered that while it was suggestive of past sexual behaviour it was not a description of or depiction of sex.

The Panel considered whether the advertisement contained sexuality. The Panel noted the definition of sexuality includes ‘sexual character, the physical fact of being either male or female; The state or fact of being heterosexual, homosexual or bisexual; sexual preference or orientation; one’s capacity to experience and express sexual desire; the recognition or emphasising of sexual matters’. The Panel noted that the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that a reference to past sexual behaviour could be considered a recognition or emphasis of sexual matters and that the advertisement did contain sexuality.

The Panel then considered whether the advertisement treated the issue of sexuality with sensitivity to the relevant audience.

The Panel considered the meaning of ‘sensitive’ and noted that the definition of sensitive in this context can be explained as indicating that ‘if you are sensitive to other people's needs, problems, or feelings, you show understanding and awareness of them.’

(<https://www.collinsdictionary.com/dictionary/english/sensitive>)

The Panel noted that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ is a concept requiring them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement – the concept of how subtle sexual suggestions is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this television advertisement had been given a ‘W’ rating by ClearAds and that these “may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in programs principally directed to children”

(http://www.freetv.com.au/media/CAD/Placement_Codes.pdf).

The Panel noted the complainants’ concern that these advertisements had played at time while children were watching, such as during Australian Ninja Warrior and the AFL, and that the sexual reference in the advertisement at this time was inappropriate.

The Panel noted that the relevant audience for this advertisement would be broad, and would likely include children.



The Panel considered that while most adults would understand the phrase ‘faking it’ to be a sexualised term, this is not a concept young children would be familiar with. The Panel considered that the phrase is not sexually explicit and can be easily explained as her having faked liking him or something else. The Panel considered that teenagers and adults who understood the reference as sexual would be unlikely to find the reference confronting.

The Panel considered that the sexual reference in this context did treat the issue of sexuality with sensitivity to the relevant broad audience.

The Panel considered that this advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.